

**Senate Bill 175      Senator Llew Jones**  
**Generally revise public education funding**  
**Chapter: 400      Effective Date: 05/06/2013**

Senate Bill 175 provides an increase in K-12 BASE aid of \$16.1 million in FY 2014 and \$17.7 million in FY 2015. The new money is provided to all school districts through inflationary increases in the per-ANB entitlements, a redesign of the basic entitlement, a new Data for Achievement payment, and a new natural resource development K-12 funding payment. The natural resource development K-12 funding payment will reduce the level of local property taxes required to support the school district BASE budget. In addition, a smaller number of districts will receive additional K-12 BASE aid from the addition of a December 1 enrollment count and/or from changes in the requirements for anticipating oil and natural gas production taxes in the school district general fund budget.

SB 175 also provides funding to school districts that have oil and natural gas production within their boundaries or are contiguous to production areas. The legislation appropriates up to \$22.3 million for redistribution to school districts that are impacted by oil and natural gas production, but have not yet reached the limitation on the amount of oil and natural gas production taxes that they may retain. However, the amount of the redistribution will be determined by the amount of revenue generated from oil and natural gas production taxes.

*K-12 BASE Aid*

- Increases the per-ANB entitlements by 0.89% in FY 2014 and by 2.08% in FY 2015. The per-ANB entitlements are set as follows:

<u>Per-ANB Entitlement</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
Elementary Per-ANB	\$ 5,075	\$ 5,120	\$ 5,226	\$ 5,226
High school Per-ANB	\$ 6,497	\$ 6,555	\$ 6,691	\$ 6,691

- Increases the basic entitlements to the following amounts:

<u>Basic Entitlement</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
Elementary Basic	\$ 23,593	\$ 40,000	\$ 40,000	\$50,000
Middle School Basic	\$ 66,816	\$ 80,000	\$ 80,000	\$100,000
High School Basic	\$262,224	\$290,000	\$290,000	\$300,000

- Provides a basic entitlement increment for additional ANB above 250 for elementary budget units, 450 for middle school budget units and 800 for high

school budget units. At the elementary level, the district receives a full basic entitlement for the first 250 students. For each increment of 25 ANB above 250, the elementary budget unit receives another \$2,000 in FY 2014. The chart below shows how the increments apply to the elementary, middle school and high school budget units in FY 2014 through FY 2016.

<u>Budget Unit</u>	<u>First Basic Entitlement</u>	<u>Additional ANB</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
Elementary	Up to 250 ANB	25	\$2,000	\$2,000	\$2,500
Middle School	Up to 450 ANB	45	\$4,000	\$4,000	\$5,000
High School	Up to 800 ANB	80	\$12,000	\$12,000	\$15,000

There are 59 elementary budget units, seven middle school budget units, and seven high school budget units that will receive one or more additional basic entitlement increments in FY 2014.

- Provides a Data for Achievement payment for the school district general fund budget in an amount of \$10/ANB in FY 2014, \$15/ANB in FY 2015, and \$20/ANB in FY 2016 and subsequent years.
- Provides a Natural Resource Development K-12 Funding (NRD) payment, which is a new revenue source for the district general fund. The funding is distributed to each school district based on the ratio that each district's direct state aid bears to the statewide direct state aid for all school districts.

#### *Natural Resource Development K-12 Funding Payment*

- SB 175 defines the NRD payment as a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a school district.
- The NRD payment is a non-levy revenue to school districts and, in GTB-eligible districts, it will offset a portion of the guaranteed tax base aid received by the district.
- The NRD payment begins in FY 2015 with a \$3 million appropriation. In subsequent years, the minimum NRD payment is to be calculated by the Office of Public Instruction as the amount needed to prevent a statewide increase in BASE budget levies associated with inflationary increases in the basic and per-ANB entitlements.

- The funding sources for the NRD K-12 funding payment include:
  - (1) monies appropriated by the legislature to prevent increases in the BASE budget levies;
  - (2) excess funds paid to the state when a county cannot distribute funds to school districts within the county because of the 300% of the maximum general fund budget in 20-9-323, MCA, (beginning July 1, 2020);
  - (3) any amount in excess of \$7.5 million in the state school oil and natural gas impact account; and
  - (4) one-half of any interest and income, in excess of \$56 million, that is generated from common school trust lands and deposited into the guarantee account. The excess interest and income revenue must equal at least \$1.0 million in order to be distributed.
- The total NRD payment is limited to the greater of 50% of the FY 2012 oil and natural gas production taxes deposited into the state general fund or 50% of the oil and natural gas production taxes deposited into the state general fund in the two years prior plus any excess interest and income appropriated by the legislature to be distributed through the NRD payment.

*Excess interest and income*

Under SB 175, “excess interest and income revenue” is defined as an annual amount in excess of \$56 million. The excess revenue must be equal to or greater than \$1 million in order to be distributed as part of the NRD payment two years after the excess occurs. If the excess interest and income is \$1 million or less, the excess is added to the calculation of the excess revenue in the following year. (Note: The statute as drafted is conflicting about how the excess will be handled if it equals \$1 million.)

One-half of any excess interest and income is reserved for appropriation in the next regular session of the legislature as part of the NRD payment.

The other half must be distributed to schools on a per-quality educator basis. A school district deposits the funds received under this provision in its miscellaneous programs fund. The monies must be used to address any repairs categorized as safety, damage/wear out, or codes and standards in the facilities condition inventory completed for buildings of the school district in 2008. If these repairs have been completed, the district may use the funds for any other purpose authorized by the school flexibility fund, established in 20-9-543, MCA.

### *School District Budget Limits*

The Data-for-Achievement payment is a new component of the school district general fund budget. The BASE budget and maximum general fund budget limits are expanded to include the Data-for-Achievement payment. The payment is funded by the state, and there is no local property tax increase associated with this payment.

SB 175 amends 20-9-308, MCA to allow a school district to add any increase in direct state aid for the basic and per-ANB entitlements and any increases in state funding for the Data-For-Achievement payment, the quality educator payment, the at-risk student payment, the Indian education for all payment, and the American Indian achievement gap payment to the previous year's general fund budget in order to calculate the district's "highest budget". Any increases in local property taxes associated with the increased budget limits must be approved by the voters.

SB 175 clarifies that a school district may increase its over-BASE budget levy to access revenue previously authorized by the electors of the district or imposed by the district in any one of the previous five years. The district has access to the highest amount of property tax levies authorized by the voters in any of the previous five years to support the general fund budget.

SB 175 allows trustees to reduce nonvoted property taxes in any budgeted fund and transfer the levy authority to increase the general fund over-BASE budget levy without a vote. The intent of the section is to increase flexibility and efficiency of school boards without increasing school district property taxes. The ongoing authority for any nonvoted increase in the over-BASE levy must be decreased in future years to the extent that the district increases other nonvoted property tax levies.

### *Budgeting of oil and natural gas production taxes*

Under SB 175, school districts must anticipate general fund revenue of at least 25% of the previous year's oil and natural gas production taxes or an amount to meet the general fund levy requirement, whichever is less. One-half of the anticipated production taxes must be used to reduce the general fund BASE budget levy. The remainder may be used to reduce either the BASE budget levy or the over-BASE budget levy at the discretion of the district.

A district that meets one of the following conditions is not required to anticipate oil and natural gas production taxes in its general fund budget. Nor is the district required to allocate one-half of any oil and natural gas production taxes that it does anticipate to reduce the BASE budget levy.

- 1) a district with a maximum general fund budget of less than \$1 million;

- 2) a district whose oil and gas revenue combined with its adopted general fund budget total 105% or less of its maximum general fund budget;
- 3) a district that has a maximum general fund budget of \$1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction for the ensuing year as provided in 20-9-314;
- 4) a district that has issued outstanding oil and natural gas revenue bonds.

*Distribution of oil and natural gas production taxes to school districts*

SB 175 continues the limitation on the maximum amount of oil and natural gas production taxes that a school district may retain at 130% of the district's maximum general fund budget. However, SB 175 provides for two exceptions to the 130% limit. The first exception is that, for school fiscal years 2014 through 2016, a school district with a maximum general fund budget with less than \$1.5 million may retain oil and natural gas production taxes in an amount up to 150% of the school district's maximum general fund budget. (Note: The language in 20-9-310, MCA indicates that this exception applies to fiscal years 2014 through 2017, but this section of statute terminates on June 30, 2016.)

The second exception is that the limit on oil and natural gas production taxes that a school district may retain must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase is calculated by multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction.

Once a school district has reached its limitation on the receipt of oil and natural gas production taxes, SB 175 establishes a redistribution mechanism of the surplus revenues to other school districts. This redistribution mechanism was referred to as "concentric circles" while the bill moved through the legislative process.

The maximum amount of oil and natural gas production tax revenue that a district may receive through the redistribution mechanism, when combined with the original distribution received by the district, is 130% of its maximum general fund budget. Surplus oil and natural gas production taxes are distributed to other districts that have not yet reached the 130% limitation in the following priority order:

- 1) to another school district within the unified school system or to any school district having a joint board status with the district from which the oil and natural gas production revenue originates;

- 2) if funds remain to be distributed after distribution to school districts under (1) above, to all school districts immediately contiguous to the district from which the oil and natural gas production revenue originates;
- 3) if funds remain to be distributed after distribution to school districts under (2) above, to all school districts that are located in whole or in part in the same county as the school district from which the oil and natural gas production revenue originates; and
- 4) if funds remain to be distributed after distribution to school districts under (3) above, to all school districts that are located in whole or in part in a county contiguous to a county where a horizontally completed well has been drilled within the last 3 years.

After the distributions are made as described above, any remaining revenue is distributed by the OPI to the state guarantee account (70%), the state school oil and natural gas impact account (5%), and to the county school oil and natural gas impact fund (25%).

*Additional official enrollment count date and calculation of ANB*

SB 175 adds a third official enrollment count on the first Monday in December. This count is in addition to the official enrollment count dates on the first Mondays in October and February. December 2013 will be the first time the OPI will gather data for the new count date. That data will be used to determine the ANB for FY 2015.

SB 175 amends 20-9-311, MCA to allow a school district to include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction if the pupil has demonstrated proficiency in the course content as determined by the school board using district assessments. Under these circumstances, the ANB for the pupil will be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the course content.

SB 175 amends 20-9-314 to allow school districts to receive an increase in ANB if the enrollment growth exceeds 4% or 40 students, whichever is less. The district will receive additional district state aid for the number of ANB in excess of the lesser of 4% of the original ANB or 40.

*Ending Fund Balance Limits*

SB 175 delays until July 1, 2020 the implementation of 20-9-323, MCA, which limits the combined ending fund balance for all budgeted funds of a school district to the 300% of the maximum general fund budget. The limit is not applicable to the building reserve

fund, debt service fund, or bus depreciation fund. Prior to the passage of SB 175, this limitation was scheduled to become effective on July 1, 2016.

#### *Inflationary adjustments for general fund payments*

SB 175 amends 20-9-326, MCA to extend the annual inflation-related adjustment to the data for achievement payment, the quality educator payment, the at-risk student payment, the Indian education for all payment, and the American Indian achievement gap payment. These inflationary increases do not apply in FY 2014 and FY 2015, but will apply to the state budgeting process for the 2017 biennium and beyond.

#### *Oil and natural gas revenue bonds*

SB 175 authorizes school districts to issue voter-approved, oil and natural gas revenue bonds. The maximum amount of oil and natural gas revenue bonds that a school district may issue is limited to three times the average of the district's annual oil and natural gas production taxes received pursuant to 15-36-331, 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the district's oil and natural gas revenue bond is also secured by a deficiency tax levy as provided in 20-9-437, the outstanding balance of this oil and natural gas revenue bond is included in the calculation of the district's debt limit.

Oil and natural gas revenue bonds are payable from the oil and natural gas production taxes received by the school district. With voter-approval, a school district, may also specify that its oil and natural gas revenue bonds are further secured by a deficiency tax levy if for any reason the oil and natural gas production taxes received by the school district and the amounts in the debt service reserve account are inadequate to pay the principal of or interest on the bonds as they become due.

#### *Oil and natural gas impacts*

SB 175 amends 20-9-517, MCA to provide distributions from the state school oil and natural gas impact account to school districts that are impacted by oil and natural gas development but are receiving oil and natural gas production taxes under 15-36-331 in an amount less than 20% of the district's maximum general fund budget. Effective July 1, 2016 the distribution criteria changes to allow monies from the impact account to be distributed to districts that are not receiving oil and natural gas production taxes "in an amount sufficient to address oil and gas development impacts."

Funds distributed to school districts from the county school oil and natural gas impact fund under 20-9-518 will be distributed to the districts within the county based on the ratio of quality educators in district to the total number of quality educators in the county. School districts receiving these funds may deposit the funds in any budgeted fund of the district at the discretion of the board of trustees.

#### *K-12 data task force*

SB 175 creates a 27-member K-12 data task force to advise the OPI. The task force reviews, monitors, and provides input and guidance in enhancing the statewide K-12 data system pursuant to 20-7-104, MCA. Task force members include legislators, school board trustees, school administrators, teachers, school district technology staff, parents, and district clerks.

#### *Implementation of Montana school accreditation standards*

The increased funding for the school district general fund budgets, beyond inflation, provides schools with resources to implement the changes to the state accreditation standards adopted by the Board of Public Education during fiscal years 2012 and 2013 and to continue to enhance efforts at improving academic achievement for students.

#### *Transfer of state general fund to state special revenue account*

SB 175 requires the transfer of \$22,950,178 for the state general fund to the Montana support for schools special revenue account. After July 1, 2013 and prior to July 30, 2013, the monies in the Montana support for schools special revenue account will be transferred to the guarantee account. During FY 2014, \$11,475,089 will be used for state equalization aid. The remaining \$11,475,089 will be used for state equalization aid in FY 2015.

#### *Appropriations*

For the biennium beginning July 1, 2013, SB 175 appropriates \$25.8 million from the state general fund for K-12 BASE aid; \$22.3 million from the state school oil and natural gas distribution account for redistribution of surplus oil and natural gas production taxes in accordance with 20-9-310; and \$13,522 from the state general fund to the office of public instruction for costs associated with the K-12 data task force.